

Amendment No. 3 to HB2789

Coleman
Signature of Sponsor

AMEND Senate Bill No. 2725

House Bill No. 2789*

By deleting Section 15 of the bill as amended by amendment (drafting # 1511433) in its entirety and substituting instead the following:

SECTION 15. Tennessee Code Annotated, Section 40-39-207(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a)

(1) Except as provided for in § 40-39-21_, no sooner than ten (10) years after termination of active supervision on probation, parole or any other alternative to incarceration, or no sooner than ten (10) years after discharge from incarceration without supervision, an offender required to register under this part may file a request for termination of registration requirements with TBI headquarters in Nashville.

(2) Notwithstanding subdivision (a)(1), if a court of competent jurisdiction orders that an offender's records be expunged pursuant to § 40-32-101, and the offense being expunged is an offense eligible for expunction under § 40-32-101, the TBI shall immediately remove the offender from the SOR and the offender's records shall be removed as provided in § 40-39-209.

AND FURTHER AMEND by adding the following new section immediately preceding the last section of the bill as amended by amendment (drafting # 1511433) and by renumbering existing sections accordingly:

SECTION ___. Tennessee Code Annotated, Title 40, Chapter 39, Part 2, is amended by adding a new section thereto:

§ 40-39-21_.

(a) Except as provided in subsection (d), the director of the Tennessee bureau of investigation, or the director's designee, at times set forth in this section shall review violent juvenile sex offenders for the purpose of determining if, in the interests of justice and the public's right to know, the violent juvenile sexual offender should remain on the SOR. The review shall take into account the following factors if they can be reasonably determined:

(1) The date of the juvenile sexual offender's act or acts that constitute a violent juvenile sexual offense, and the length of time since the occurrence of such act or acts;

(2) The nature of the juvenile sexual offender's act or acts that constitute a violent juvenile sexual offense and the effect of such act or acts upon any victims and others;

(3) The potential of future harm to the public by the violent juvenile sexual offender;

(4) The violent juvenile sexual offender's criminal or juvenile history, both before and after the act or acts that constitute a violent juvenile sexual offense;

(5) The violent juvenile sexual offender's demonstrated history of good behavior;

(6) The violent juvenile sexual offender's compliance with the terms of such violent juvenile sexual offender's probation, parole or other supervision of any nature;

(7) The violent juvenile sexual offender's work history, or lack thereof;

(8) The violent juvenile sexual offender's demonstrated history of stability, rehabilitation and citizenship, if any;

(9) The desires of the violent juvenile sexual offender's victim or victims or any such victims family; and

(10) Such other factors that demonstrate whether or not the violent juvenile sexual offender should or should not be removed from the SOR.

(b) The review described in this section shall take place within twelve (12) months of the violent juvenile sexual offender reaching nineteen (19) years of age, and again every five (5) years thereafter, until the violent juvenile sexual offender has been on the SOR for twenty-five (25) years. Such review shall be only upon the written request made by the violent juvenile sexual offender. The violent juvenile sexual offender shall continue to be listed on the SOR for twenty-five (25) years, unless the director or the director's designee determines that the violent juvenile sexual offender has established by a preponderance of the evidence that:

(1) The violent juvenile sexual offender no longer poses any substantial threat of harm to the public;

(2) The violent juvenile sexual offender has substantially complied with all the terms and conditions of any sentence, probation or supervision;

(3) The violent juvenile sexual offender poses no substantial threat of harm to any of the violent juvenile sexual offender's victims or the victims' family; and

(4) It is in the interest of justice that the violent juvenile sexual offender's information be removed from the SOR.

(c) The director's findings shall be reduced to writing and may be appealed by either the violent juvenile sexual offender or the state in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) Twenty-five (25) years after termination of active supervision, probation or custody, a violent juvenile sexual offender required to register under this part may file a request for termination of registration requirements with TBI headquarters in Nashville. Section 40-39-207 shall be used to determine whether the violent juvenile sexual offender may be removed from the SOR or whether or not the violent juvenile sexual offender shall be required to comply with the registration, verification and tracking requirements for the life of the violent juvenile sexual offender.